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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
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12 GENENTECH, INC.,

13 Plaintiff,

14 v.

15 THE TRUSTEES OF THE UNIVERSITY
16 OF PENNSYLVANIA,

17 Defendant.

Case No.: C 10-2037 PVT

**ORDER RE PARTIES' FORM OF
PROTECTIVE ORDER**

18 On September 24, 2010, the parties submitted a proposed form of stipulated protective order.
19 Some of the provisions of the proposed form of order are not acceptable to the court.¹ Rather than
20 spend time identifying all of the problems with the proposed form of order, the court finds it more
21 efficient to direct the parties to use the one of the court's model forms of protective order.
22 Therefore,

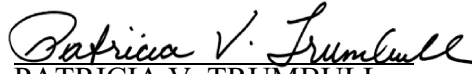
23 IT IS HEREBY ORDERED that, no later than December 1, 2010, the parties shall submit a
24 revised form of protective order that uses the wording of the court's model "Stipulated Protective
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26 ¹ For example, Paragraph 2.(c) of the proposed form of order purports to make it improper
27 to designate information confidential if the information *thereafter* is disclosed by a party as a matter of
28 right – something the designating party would have know way of predicting at the time it designates the
information confidential. A more significant problem is the proposed provision in Paragraph 19 that
automatically relieves a party of any waiver of privilege that would otherwise result from an inadvertent
disclosure. Such determinations must be made based on the facts and circumstances surrounding
specific inadvertent disclosures.

1 Order for Litigation Involving Patents, Highly Sensitive Confidential Information And/or Trade
2 Secrets” available in the “Forms” section of the court’s website (www.cand.uscourts.gov). If the
3 parties believe that modification² of the court’s model form of order is reasonably necessary for the
4 present action, they shall also submit a joint brief explaining what modification they seek, and why it
5 is reasonably necessary for the present action.

6 IT IS FURTHER ORDERED that, pending entry of the final form of protective order, the
7 handling of confidential information shall be governed by the provisions of the court’s model
8 “Stipulated Protective Order for Litigation Involving Patents, Highly Sensitive Confidential
9 Information And/or Trade Secrets.”

10 Dated: 11/19/10

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12 PATRICIA V. TRUMBULL
13 United States Magistrate Judge
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28 ² As used herein, “modification” does not include merely selecting one of two or more
optional provisions so long as the wording of the option selected accurately reflects the wording in the
court’s model form of order.